

## 5.9 Public Safety

CEQA requires agencies to address impacts that will have a primary and adverse physical effect on the environment. "Significant effect on the environment" is defined as a "substantial, or potentially substantial, *adverse change in any of the physical conditions within the area affected by the project . . .*" (CEQA Guidelines §15382, emphasis added). Many cases interpreting CEQA have dealt with the issue of secondary effect, but no case has held that a secondary effect need not be physical to be considered under CEQA. In fact, just the opposite is true. Mere social changes, psychological fears, or unsubstantial assertions of effects on property values or safety do not constitute a "significant effect" within the meaning of CEQA.

Concerns about public safety in the area of certain facilities — jails, prisons, mental hospitals, parole offices and the like — are not reviewable under CEQA unless they can be shown to result in direct or indirect physical effects. The CEQA process was not intended by the Legislature to focus on all of the issues which might pertain to a project and the decision whether to approve it. Rather, CEQA's provisions are intended to protect the physical environment, as opposed to answering other — albeit important — planning questions. Therefore, even if it could be demonstrated that an increase in crime rate in an area would occur, that vandalism might occur, or that recidivism of inmates might produce more crime, in the overall decision-making process, these are not "significant effects" under CEQA unless it could also be shown that these effects produce physical changes. The Public Safety chapter of this EIR focuses on the issue of whether there are adverse effects to the physical environment as a result of the project that are distinguishable from social effects or perceptions of fear of economic impact. In fact, the Legislature has from time to time amended CEQA to completely exempt state prisons from its requirements in order to bring needed facilities on line.

This EIR incorporates by reference pursuant to CEQA Guidelines §15150 the discussions of socioeconomic effect and public perceptions regarding detention facilities from the EIR's for the Long Term Jail, Katella-Douglass, and Theo Lacy. The location of these documents for public inspection is the Environmental and Project Planning Division of the County of Orange at the address shown on the title page of this EIR. For public convenience, copies of these documents have also been given to the City Manager's offices in the cities of Lake Forest and Irvine.

The County of Orange provides the following discussion for public information purposes and because the public comments before this Draft EIR was published focused frequently on socioeconomic and public safety issues. The County could have provided this data in the staff report only; however, the County wishes to better acquaint the public with this data, and therefore is including the information here. For the public's convenience, the information is presented in the typical EIR discussion format. The public safety analysis is included in this section, and the socioeconomic analysis appears in Section 12.

### 5.9.1 Environmental Setting

As with all urbanized areas, particularly in central Orange County, there is crime. Crime occurs in all forms due to a number of facilities and factors indigenous to these communities. The Musick Jail lies in such an urbanized area as well, as defined by the Bureau of the Census. But for the fact that the Musick site is essentially bordered on two sides by the MCAS - El Toro, the facility would be surrounded by development. In fact, all three primary alternatives for the El Toro Reuse Plan show development to the west/northwest of the site. To the north/northeast, a 12-15 acre cleared area could be used for agriculture or development. The 1986 Musick EIR, in fact, approves this area for agricultural use by the Sheriff's Department, and the recently issued Reuse Plan EIR proposes this area for conveyance to the Sheriff's Department for agricultural purposes. North of this 12 to 15 acres, the military base land has been placed in the NCCP reserve.

#### Escapes

With respect to the Musick Jail specifically, there have been no on-facility escapes since the perimeter security fence was installed in early 1996. However, prior to that time, there were escapes.

Table 18 is a history of escapes from the Musick Jail. The terms "On" and "Off" identify whether the inmate escaped from the facility ("On") or from a work crew at another location in the County ("Off").

**Table 18**  
**Musick Escapes**  
**(Year to Date 8/15/96)**

	<b>Total</b>	<b>On</b>	<b>Off</b>
1996 year to date	0	0	1
1995	14	11	3
1994	11	7	4
1993	10	6	4
1992	31	23	8
1991	13	7	6

Last on compound escape - 8/19/95

The installation of the new fence alone appears to have curtailed inmate escapes.

There was one escape in 1995, during the day, which is discussed further below. The escapee travelled approximately 300 yards from the facility in a south/southwest direction. At approximately 300 yards from the facility, the escapee awakened a man in his car, demanded he exit the car, and then stole the car. The incident was immediately reported, and the escapee was apprehended a few minutes later a short distance north of the Alton Parkway interchange on the I-5 Freeway by the City of Irvine Police Department. This escape occurred *before* the 10-foot fence was completed in 1996. This incident represents one escaped inmate out of 79 escapes since 1990 who committed a crime before being apprehended.

### Staff-to-Inmate Ratios

The national average for staffing is one correctional officer for every four prisoners. What must be kept in mind concerning this figure is that, nationwide, correctional officers are not as comprehensively trained as deputy sheriffs, and therefore more personnel are necessary.

The staff-to-inmate ratio in the County jail system is 1:10. In his April, 1996 address to the Board of Supervisors, Sheriff Gates explained that the Department has been able to operate the jails with a relatively low staff population (in relationship to the inmate population) because of the training and quality of the sworn and unsworn personnel. This is another reason for maximum security facility design, even if the inmate is not a maximum security inmate.

### System for Notifying Public of an Escape

When an escape has been ascertained, the Sheriff's Patrol Watch Commander is immediately notified by jail facility staff. The Patrol Watch Commander then immediately dispatches Sheriff Patrol units and the helicopter if it is available. The Chief of Police for Lake Forest, the Lake Forest City Manager and the Irvine Police Department are immediately notified of the escape. A press release is prepared and made available to any news agency that inquires.

Notification to local law enforcement authorities is the preferred way to alert municipalities of an escape, as the municipality's police department may increase coverage of an area until the inmate is apprehended.

### Crime in the Area of the Musick Jail

It is also important to acknowledge that crime events do occur within approximately one mile of the Musick Jail now, and are unrelated to the inmates<sup>35</sup> or their visitors.

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<sup>35</sup>Male and female inmates completing their sentences are transported and released in Santa Ana if they do not have transportation. No released inmates are allowed to walk off the facility at the present time. (Personal Communication, Capt. George King, O.C. Sheriff's Department, July 1996).

Within the City of Lake Forest study area, there were a total of 52 persons arrested during 1995. Each of these arrestees' names was cross-checked against the names of recently released inmates and inmate visitors who came to the Musick Jail. During 1995, 16,107 inmates were processed for release at the Musick Jail. Those inmates who did not have transportation off the facility were bussed to Santa Ana for release. Inmates with family or friends picking them up were released from the Musick Jail. Because it was not easily determined which inmates were transported to Santa Ana for release and which were released from the Musick Jail, all 16,107 inmate names were cross-checked against the arrestees in the study area. During 1995, there were also 53,194 inmate visitors. All 53,194 visitors' names were cross-checked against the arrestees in the study area. Between the 16,107 inmates and the 53,194 inmate visitors, not a single match could be made with any of the arrestees in the study area.

Appendix H shows, by selected city, the types of crimes occurring within those cities. From this data, it can be deduced that arrests for felonies and misdemeanors occur on a significant level in these two cities.

The law enforcement effort directed at a notable percentage of the crimes committed in South Orange County is by agencies other than the County Sheriff and City Police Departments (e.g., California Highway Patrol, Probation, Drug Enforcement Agency). All of these crimes contribute to the overall crime profile of the area.

What can be stated from the data is that crime already occurs in the area of Musick Jail. Although the crime rate is not high within one mile of the jail, it does exist. None of the arrests, however, could be attributed to released inmates or visitors at the Musick Jail<sup>36</sup>.

FRSEIR 499 for the Theo Lacy expansion devoted considerable discussion to public safety issues (pages IV-65 through IV-73; Appendix B). These materials are incorporated herein by reference as if set forth in full. The analyses concluded that, while the public may express fears regarding a jail or prison facility, actual data and evidence show those fears to be unfounded. Fears may have either a factual or non-factual basis. The extent to which a fear is factually based lends credibility to its justification.

The following discussion describes crime analysis from Sheriff's Department and City of Santa Ana and City of Orange Police Department records. The cooperation of the cities' Police Departments in this effort is noted and appreciated.

At the time the latest Theo Lacy Expansion Jail EIR was prepared, a study was undertaken to determine whether crimes committed within the vicinity of either the Santa Ana Main Jail Complex/IRC or Theo Lacy jail could be correlated to the inmate releases. At the time the study was done, The Main Jail complex contained approximately 2,500 inmates at all classification levels, and also had full booking and release of all inmates. The Theo Lacy Jail had contained over 1,300 inmates at all classification levels, but only

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<sup>36</sup>Personal Communication, Orange County Sheriff's Department. The OCSD assembled the crime statistics mentioned, and then cross-referenced those statistics to names of released inmates (women), escaped inmates and visitors.

released minimum and medium security inmates at the facility. Because the demand for jail beds is a 24-hour occurrence, releases from both facilities are on a round-the-clock (24-hour) basis. With respect to the Theo Lacy Jail analysis the one year period covered a six-month time frame prior to expansion and occupation of the jail, and a six-month period following the occupation of the expansion itself with inmates at all classification levels.

No correlation could be found between the crime incidents and recently released inmates. This is most likely due to the fact that inmates, after having been released, wish to distance themselves from the jail facility. More importantly, the inmate is typically met by family and friends and transported out of the area. With respect to visitors, the City of Orange crime data provided did not reflect whether the person had been a visitor to the jail or not. However, crime records for other urban malls did not reveal shoplifting rates much higher than at the City Shopping Center across from Theo Lacy Jail. In fact, because the rate at the Orange Mall was actually higher,<sup>37</sup> it can be concluded that the presence of the jail and its visitors had no effect on crime rates.

With respect to the Main Jail Complex/IRC in Santa Ana, a similar review of the relationships between crime events and inmate releases was undertaken and reported in the Theo Lacy Expansion EIR (FEIR 558, page 178). The Main Jail/Intake and Release Center in Santa Ana is located in a relatively active central urban area producing many crime events. There is a concentration of facilities (the Civic Center and the Transportation Center) as well as gang activity in the area of the Main Jail/Intake and Release Center.

The data showed that, during the 12-month study, only one crime had been committed by a recently released inmate within the vicinity of the complex. In this single case, the released inmate was re-arrested approximately 13 hours after his release from jail. His home address was within 2½ miles of the jail, and therefore, no conclusion could be drawn as to whether the crime was a result of the release or due to the fact that the residence of the released inmate was in the area where the crime was committed. The more likely explanation is that the location of the crime was related to the location of the inmate's residence, and not due to the fact that he had been recently released from the jail, especially since no other crimes in this time period correlated with inmate releases.

Whatever the basis of fear for public safety, the evidence supports the view that there is no greater crime rate within the area of Theo Lacy Jail than was experienced before the expansion was operational. Crime rates are driven by several factors, and in view of the urban nature of this area, are caused by more than one stimulant. There is no evidence tending to show that crime rates will increase if the Musick Jail is expanded and inmates are released there, even if there is an increase in the classification of the inmates housed there. Under CEQA, the social characteristics of prospective visitors to the facility are not an element in determining whether a significant impact will result, unless it can be shown that direct or indirect physical changes will occur. There is no evidence to support such

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<sup>37</sup>FEIR 558, Theo Lacy Jail Expansion, page 184.



a conclusion and, in fact, the evidence available supports the contrary conclusion. Therefore, no mitigation measures are necessary.

### **5.9.2 Project Impacts Prior to Mitigation**

The Sheriff's Department has compared the crime statistic data for a one-mile area surrounding the Musick Jail in a manner similar to that described above. Only minimum security inmates with transportation are released from the Musick Jail at the present time. All releases without a ride are released in Santa Ana. No released inmates are allowed to walk off the facility.

Because these data deal with a minimum security jail with a reduced number of releases than would normally occur, a prediction as to the potential for crime events related to larger numbers of released inmates at the minimum to maximum classification level must be inferred from the other data.

The Santa Ana and Theo Lacy Jail data recited above are usable to illustrate that criminal events are virtually unrelated to the presence of the jail. Theo Lacy lies in an area where there exists moderate to expensive homes, a major regional shopping center, and office buildings. The potential developer for a remodeling and expansion of the shopping center elected to proceed with plans for its project without regard to the "all classification" character of the Theo Lacy facility. The Santa Ana Main Jail complex is in a highly urbanized area that is not considered comparable to the area surrounding the Musick Jail. Although Theo Lacy data is helpful to predictive analysis of the potential for crime events related to released former maximum security inmates and their visitors, it can also be argued that the residential areas surrounding Musick are more affluent than those in Santa Ana or Orange. However, the Theo Lacy data is usable for comparisons with respect to minimum and medium security inmates, because of the proximity of affluent neighborhoods in the Memory Lane area of Santa Ana less than ¼ mile from the Theo Lacy Jail site, and comparable to those in Lake Forest. Office/business park and commercial uses in the vicinity of Theo Lacy are considered comparable to the uses surrounding Musick. Many County jails are located in areas of mixed uses, and these areas are not always "blighted" or "crime-ridden," nor do they become that way as a result of the jail and its visitors and releases<sup>38</sup>.

A safety question is sometimes raised with respect to fires or riots in the jail, or what might happen to inmates in the event of earthquakes. Taken in order, fires are very rare

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<sup>38</sup>The community of Towson, Maryland, for example, is one of the oldest and finest areas of that state, and is located in Baltimore County. This County also includes the City of Baltimore, one of the highest per capita crime cities in the nation. The Baltimore County Department of Corrections administers a facility on Kenilworth Avenue in the middle of an area of moderate to expensive homes. This facility holds 900 maximum security-only inmates and has been in operation for many years (remodelled in 1980). Inmates are released directly from the facility during the hours of 8 a.m. to 8 p.m. The building internal design is quite similar to that proposed at the Musick facility. The detention facility personnel reports that there have been no unique crime events, and no reports of problems associated with released inmates or visitors. (Major McLain, personal communication, August 14, 1996)

in these newer buildings because of the materials used and the fact that smoking is prohibited. Even if the building had to be evacuated, it is evacuated into the secured "First Defense" fence and 10-foot fence area. Therefore, the possibility of escapes is remote.

As to riots, the best evidence of the ability of the buildings to contain inmates is actual experience. There was a disturbance at the Theo Lacy Jail in 1994. Containment was absolute, largely due to building design.

Finally, earthquakes can damage jail buildings. The jail buildings are required to be constructed using the very highest standards because of the incarceration aspect. Any earthquake which would be strong enough to cause a breach in the security of the jail buildings would therefore be so catastrophic that it would be difficult to separate any resulting hazard from the condition of the area as a whole. It is unlikely in such an event that the 10-foot fence would be breached, and this would act as containment as well.

The last consideration is the possibility of escapes and the relationship to public safety. There have been several escapes from the Musick Jail over the past several years; however, since the perimeter fence was installed this year, there have been no on-facility escapes. Further, there has never been an escape from the Intake and Release Center in Santa Ana since its opening in 1988. The buildings there — with no outdoor recreation — are quite similar in design to those to be placed at the Musick Jail. There have been no escapes from the Theo Lacy facility since the maximum security fence was installed, even though recreation for minimum and medium security inmates occurs outside, and the old dormitory buildings are minimum security facilities. This tends to support the conclusion that escapes are far less likely using the building design and fence proposed for Musick than with other older County facilities.

For all of the foregoing reasons, the County has concluded that substantial evidence supports the view that no documented public safety issue exists with respect to the issue of public safety in the vicinity of a jail. Public fears for safety — even if genuine — are not factually supported. Although the public may *fear* a jail and its alleged effects, there is no evidence to support this fear. There is nothing in a review of the surrounding area to support that even 79 escapes since 1990 have had any adverse *physical* effect.

Therefore, this EIR concludes that a jail does not present any fact-based issues for public safety. The ICF — a 24-hour facility for mentally disturbed minors — is not considered a security risk because the County is entitled to control minors under age 12 in ways not permitted for adults (i.e., order them to stay). Those minors between 12 and 18 who attempt to leave are followed, encouraged, and taken back to Juvenile Hall or Orangewood Children's Home if they do not return. The facility is therapeutic and not correctional, which usually reduces the desire for any escape. In a highly staffed facility, close working relationships are developed with the minors, which also acts to deter walk-aways. Finally, the current facility in Orange has experienced no difficulties or criminal events as a result of the presence of this facility (see discussion in Section 4.1.4 of this EIR).

The Sheriff's Southeast Station is considered a benefit to security. The entry and exit of patrol cars and uniformed officers gives an aura of security psychologically, even if it is not needed due to the evidence.

Another potential public safety aspect deals with conditions inside the Musick Jail expansion, both with respect to inmates and Sheriff's personnel working in the facility. At the current time, racial conflict has been the underlying reason for any disturbances in the entire jail system. These disturbances have occurred in large, open barracks or dormitory areas, as opposed to the types of housing units designed to be used at Musick Jail. As the racial diversity of Orange County increases, racial tensions in the jail system can be expected to increase as well. However, in spite of past racial disturbances in the jail system (including the disturbance at Theo Lacy Jail in the month of August 1994), containment was absolute based on the new security systems and building design in place at the jail.

The public's fears of County jail facilities is often derived from film media portrayal of state and federal prisons, as opposed to County jail facilities. State and federal prison facilities usually house the most serious criminals a society faces, and those prisoners are confined to that prison for a very long time (e.g., five years or longer).

While serious offenders are also held, at least pre-sentencing, at County jail facilities, the long-term sentences are served in a state or federal prison. This means that a more serious offender is in prison for a significant period of time, and not a jail.

These prisons are administered by boards such as the Federal Bureau of Prisons, and the administrators are appointed or hired. Conversely, the County jail systems in California are run by elected Sheriffs who must maintain public support to be re-elected. Therefore, it is not in the best interests of a publicly elected official like the Sheriff to operate a facility that is not secure, or to maintain practices that compromise the security of the area in which the jail is located.

### **5.9.3 Mitigation Measures**

No mitigation measures are deemed necessary.

### **5.9.4 Level of Significance After Mitigation**

The EIR has concluded that there are no significant impacts within this area which are reviewable under CEQA.